

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DERRICK D. STEED, No. C 12-3423 CW (PR)
Petitioner, ORDER OF DISMISSAL
v.
T. KING, Associate Warden, et
al.,
Respondents.

This action was commenced when Petitioner filed a petition for a writ of habeas corpus in which he challenges his indeterminate placement in the Pelican Bay State Prison Security Housing Unit (SHU). He seeks declaratory and injunctive relief overturning his validation as a gang member and ordering his release from the SHU. He has paid the \$5.00 filing fee for a habeas petition.

On August 7, 2012, the Court, after conducting an initial review of the allegations in the petition, issued an order finding that Petitioner's claims are not cognizable in federal habeas corpus because they challenge the conditions of his confinement. The Court explained to Petitioner that the petition could be construed by the Court as a civil rights action under 42 U.S.C. § 1983, but it would decline to do so unless Petitioner affirmatively informs the Court of his intent to proceed with the case as a civil rights action. Docket no. 5 at 2:12-3:22.

Consequently, the Court dismissed the case and granted Petitioner leave to file a civil rights complaint alleging a cause of action under § 1983. The Court also explained to Petitioner that, in order for the case to proceed as a civil rights action, he

1 must pay the \$350.00 filing fee for a civil rights action or file a
2 completed application seeking leave to proceed in forma pauperis.


3 The Court informed Petitioner that he must file a completed
4 civil rights form and pay the filing fee or file the requisite IFP
5 documents no later than twenty-eight days from the date of the
6 order, and that his failure to do so would result in the dismissal
7 of this action without prejudice.

8 More than twenty-eight days have passed since the Court's
9 order was issued, and Petitioner has not filed a civil rights form,
10 paid the filing fee, filed a completed IFP application or otherwise
11 communicated with the Court. Accordingly, this case is hereby
12 DISMISSED without prejudice.

13 The Clerk of the Court shall close the file.

14 IT IS SO ORDERED.

15 Dated: 9/5/2012

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17 CLAUDIA WILKEN
18 UNITED STATES DISTRICT JUDGE
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